

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

ICU MEDICAL, INC.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	C.A. No. 07-468-JJF
	)	
RYMED TECHNOLOGIES, INC.,	)	
	)	
Defendant.	)	<b>JURY TRIAL DEMANDED</b>
	)	

**DECLARATION OF MATTHEW GINGO IN SUPPORT OF ICU'S  
OPPOSITION TO RYMED'S MOTION TO TRANSFER VENUE**

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*Attorneys for Plaintiff ICU Medical, Inc.*

Dated: October 29, 2007  
828257 / 32116

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

ICU MEDICAL, INC.,	)	Civil Action No. 07-468-JJF
	)	
Plaintiff,	)	
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v.	)	
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RYMED TECHNOLOGIES, INC.,	)	
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Defendant.	)	
	)	
	)	

**DECLARATION OF MATTHEW GINGO IN SUPPORT OF ICU'S OPPOSITION TO  
RYMED'S MOTION TO TRANSFER VENUE**

I, Matthew Gingo, declare and state as follows:

1. I am a Product Specialist Representative ("PSR") at ICU Medical, Inc ("ICU"). I have personal knowledge of all the facts contained herein and, if called to testify, could and would competently testify thereto.
2. I have worked as a PSR at ICU for over two years. In my current role as PSR, my primary job responsibilities include sales and territory management for Maryland, Delaware, and Virginia. Therefore, I have personal knowledge of how ICU and its competitors, including RyMed, sell their products to customers, particularly in the tri-state area. I am generally familiar with RyMed and its I.V. therapy products, including the InVision-Plus.
3. I understand that RyMed has said that they do not have any distributors or hospital accounts in the state of Delaware. However, RyMed's products, including the InVision-Plus, are not just sold to hospitals; they are also available for the home care market.

"Home care" refers to treatment of a patient outside a hospital or clinic setting, usually in the patient's home. For example, some patients receive antibiotics, nutrition, and hydration intravenously at home. Many of the products used in the home care market are small, disposable products, such as needle-free connectors and syringes, which are designed to attach to standardized products used in I.V. therapy. Attached hereto as Exhibit A is a true and correct copy of RyMed's ordering pages from its website. As noted in Exhibit A, RyMed sells its products to the home care market as indicated by the "Home Infusion" link. Clicking on this link shows that RyMed's home care distributors market nationwide. Ex. A at 3-4.

4. In addition to the distributors listed in Exhibit A, from my efforts to market ICU's products in Delaware, I am aware that American HomePatient ("AHP"), a home care distributor, also distributes RyMed's products. AHP is one of the nation's largest home health care providers. It supplies medical products and services for the home care market through approximately 280 centers throughout the United States. AHP advertises that its Salisbury center covers Maryland, Virginia, and Delaware. A true and correct copy of an article from HomeCare magazine, dated July 1, 1999, detailing AHP's Salisbury sales area (in paragraph 4) is attached hereto as Exhibit B.

5. On October 18, 2007, during a routine sales call, I spoke with Jerry Ewancio, a Director of Pharmacy, at AHP's branch office in Salisbury, Maryland. Salisbury, Maryland is in the eastern-most portion of Maryland, approximately seven miles from the Delaware border. The Salisbury center of AHP distributes I.V. therapy products, including needle-free valves, into the Delaware market. From my conversations with Mr. Ewancio, I understand that AHP also has two distribution facilities in Delaware, but these facilities do not distribute I.V. therapy products, which are only available from the Salisbury center. When a Delaware nurse or patient, whose

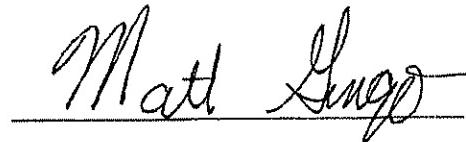
source for I.V. therapy products is AHP, needs I.V. therapy products, like a needle-free connector, he or she must obtain the product from the AHP center in Salisbury.

6. Mr. Ewancio, from the Salisbury center, informed me that AHP currently distributes the InVision-Plus manufactured by RyMed Technologies, Inc. into Delaware.

7. I asked Mr. Ewancio if he would be willing to provide a declaration based on the information he shared with me concerning RyMed's distribution and sales in Delaware. However, he was reluctant to get involved in any dispute and declined to do so.

8. I presently reside in northern Virginia. The territory that I cover for ICU includes the Salisbury location and all of Delaware. Given the size of Delaware and its proximity to other metropolitan areas, it is common for pharmacies or other businesses like AHP to deliver production from a facility outside the state for use in Delaware.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on October 29, 2007, in Richmond, Virginia.

A handwritten signature in black ink, appearing to read "Matt Lingo", is written over a horizontal line.

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

**CERTIFICATE OF SERVICE**

I, Kenneth L. Dorsney, hereby certify that on October 29, 2007, the attached document was electronically filed with the Clerk of the Court using CM/ECF which will send notification to the registered attorney(s) of record that the document has been filed and is available for viewing and downloading.

I hereby certify that on October 29, 2007, I have Electronically Mailed the document to the following person(s):

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# EXHIBIT A

# InVision-Plus®

## NEUTRAL® I.V. Connector System



"Touch-Free"  
Package System - RYM-5000



"Peel Pouch"  
Packaging System – RYM-5001



Catheter Extension Sets with  
InVision-Plus® Neutral®  
I.V. Connector System

All extension sets are made of soft,  
kink-resistant, Non-DEHP PVC tubing.

THE FIRST NEUTRAL  
FLUID DISPLACEMENT  
I.V. CONNECTOR  
SYSTEM designed to  
reduce the possibility  
of Intraluminal  
Thrombotic Catheter  
Occlusions

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THE FIRST DOUBLE  
MICROBIAL BARRIER  
I.V. CONNECTOR  
SYSTEM designed to  
reduce the possibility  
of Intraluminal  
Catheter-related  
Bloodstream  
Infections

**Full Product Line Descriptions 2007****Hospitals****Home Infusion****Alternate Site**

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DISTRIBUTORS SERVING USA

# InVision-Plus®

*NEUTRAL® I.V. Connector System*



"Touch-Free"  
Package System - RYM-5000



"Peel Pouch"  
Packaging System – RYM-5001



Catheter Extension Sets with  
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I.V. Connector System

All extension sets are made of soft,  
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# EXHIBIT B

[Hampton Tree Service](#) - DoylesTreeService.com

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## Robotic Reminders

Valerie J. Nelson

**Jul 1, 1999 12:00 PM**

THE IDEA STRUCK Barbara Robinson as she was, once again, flipping through a well-worn notebook to see which patient needed what enteral supplies and when: Why not have the company computer system help manage this process? After all, her boss was always saying, "If you are writing something down, you aren't using the computer. It isn't there just to put orders in the system."

So the customer service representative for American HomePatient of Delmarva in Salisbury, Md., booted up the recurring sales feature that was already a part of the company's software package and set about to make it start doing this critical but repetitive task. After a short learning curve and some data entry, Robinson customized the software to generate a ticket for each patient once a month to remind staff to check on supplies.

The new system works especially well for enteral patients who are children, Robinson reports. "We've gotten a number of comments from mothers who look forward to our call every month," she says. "It's one more thing they know they don't have to worry about. It's a big relief to a lot of these moms that they can order something once, and, as long as the child is on the formula, they know we will call in plenty of time to reorder so they won't run out."

Located near the eastern shore of Maryland, American HomePatient of Delmarva is a rural provider that serves between 40 and 60 enteral patients at any one time in the tristate area the company is named after-Delaware, Maryland and Virginia. About 20 employees work at the former mom-and-pop shop that was sold to American HomePatient in 1996.

Given the company's client base and geography, taking a computerized approach to managing recurring orders was almost a matter of self-preservation, says Robinson. The provider was plagued with emergency weekend calls from customers calling in a panic because they were using their last formula. But since the ticket-reminder system was launched in September, the company has managed to reduce overtime pay for after-hours delivery, cut down on time and gasoline wasted when drivers had to break off from their planned routes to fit in an unexpected stop, and improve morale among employees and customers.

"It was very frustrating before," Robinson says. "We didn't have one person following each patient. The mother or a caregiver would have to talk to two or three people here. Or parents would get involved in some other aspect of care, and they would forget to call. Then, it would be, 'We need something by 2 p.m.,' and we'd have to drop what we were doing to get the patient on track."

The three people responsible for customer service for the company can now focus on tasks such as serving as a liaison to the hospital and answering patients' questions more completely over the phone. Fueled by this success, Robinson is dedicated to streamlining the enteral ordering process. "Instead of being jacks-of-all-trades, master of none, we're a little more knowledgeable," she says.

In her case, make that Jill of all trades and certainly a computerized master of one.

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